

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SHELDON LEO KESSLER
427 Spruce Street, Apt. 4
Clearfield, PA 16830

Registered Nurse License No. 689170

Respondent.

Case No. 2012-206

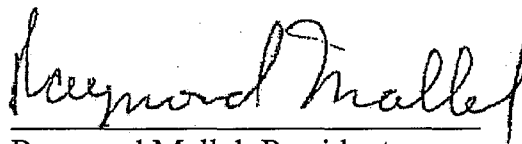
OAH No. 2011111070

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on September 20, 2012.

IT IS SO ORDERED this 21th day of August, 2012.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SHELDON LEO KESSLER
Brockway, PA 15824

Registered Nurse License No. 689170

Case No. 2012-206

OAH No. 2011111070

Respondent.

PROPOSED DECISION

This matter was heard before Administrative Law Judge Jonathan Lew, Office of Administrative Hearings, State of California, on June 11, 2012, in Sacramento, California.

Arthur D. Taggart, Supervising Deputy Attorney General, represented Louise R. Bailey, M.Ed., R.N. (complainant), Executive Officer, Board of Registered Nursing (Board), Department of Consumer Affairs.

Sheldon Leo Kessler (respondent) appeared telephonically on his own behalf.

Evidence was received, the record was closed, and the matter was submitted for decision on June 11, 2012.

FACTUAL FINDINGS

1. On September 20, 2006, the Board issued Registered Nurse (R.N.) License Number 689170 (license) to respondent. Respondent's R.N. license expired on September 30, 2008. It has not been renewed. Complainant seeks to discipline respondent's license based upon license discipline imposed by the Pennsylvania State Board of Nursing as described below.

Pennsylvania Disciplinary Action

2. On February 19, 2010, pursuant to the Final Order of Automatic Suspension in the disciplinary proceeding titled "In the Matter of the Automatic Suspension of the License to Practice Professional Nursing of Sheldon Leo Kessler, RN," Docket No. 0177-51-2010,

respondent's license to practice professional nursing in the Commonwealth of Pennsylvania was automatically suspended based on the following criminal conviction. On November 10, 2009, in the criminal proceeding titled *Commonwealth v. Sheldon Leo Kessler* (Ct. Common Pleas, Clearfield County, PA, 2009, Case No. CP-17-CR-316-2009), respondent pled guilty to violating section 13(a)(12) (the acquisition or possession of a schedule II controlled substance [Demerol] by misrepresentation, fraud, forgery, deception, or subterfuge, a felony); and section 13(a)(16) of the Drug Act, 35 P.S. section 780-113(a)(16) (knowingly or intentionally possessing a schedule II controlled substance [Demerol] by a person not registered under this Act, a misdemeanor).

The incident underlying respondent's conviction occurred on January 23, 2009. Respondent was working at that time in the Medical Surgical Unit at Clearfield Hospital, in Clearfield, Pennsylvania. He accessed an automated narcotic dispensing instrument (Pyxis) to obtain medication for a patient. While doing so, he also removed two Demerol tubes (50 mg each) for himself. When interviewed on February 27, 2009, respondent admitted taking the two Demerol tubes, and self-injecting both.

3. Respondent was sentenced to a 90-day term in the Clearfield County Jail, and placed on two years probation, to run consecutively. He was eligible to participate in the county's work and early release programs, and was released after 70 days. Upon his release, he was to attend and successfully complete drug and alcohol counseling at Two Roads Counseling in Hyde, Pennsylvania, plus any follow-up recommendations. Respondent remains on criminal probation through November 2012. He is compliant with all terms and conditions of his probation.

4. Respondent explained that he took the Demerol from his workplace as part of a planned suicide attempt. He was involved at that time in a child custody dispute with his ex-wife. She would not let him see his children and he became depressed. He indicated that he took the Demerol and became unconscious. When he regained consciousness, he drove out of town and slit both wrists. He was discovered two days later in his car and taken to a trauma center, and later admitted to Warren State Hospital. Respondent went through a six-month drug and alcohol treatment program, and was also managed for depression. This was his second suicide attempt. He had previously slit his wrists in 2006. This first suicide attempt also related to marital issues. He was prescribed medications at that time and he believed that this was sufficient to treat his depression.

5. Respondent was working as a registered nurse when he attempted suicide on those two occasions. He is no longer working in any capacity. He resides with his mother and receives Social Security disability income based upon his mental health issues.

Rehabilitation

6. Respondent is seeing Luisito Dingcong, M.D., for treatment of Major Depression and Generalized Anxiety Disorder. He sees Dr. Dingcong every three to six months. Dr. Dingcong has followed respondent since March 2009, and avers by letter dated

February 22, 2012, that respondent has been compliant with his treatment. Respondent's current medications include Ambien, Klonopin, Abilify, Paxil and Wellbutrin. Respondent takes these medications daily for depression, anxiety and to help him sleep. Dr. Dingcong noted that respondent has not given him any reason to suspect that respondent is abusing any of his medications. Dr. Dingcong believes that respondent is ready to return to nursing. Dr. Dingcong did not elaborate beyond this.

7. Respondent was seen by licensed psychologist and certified addiction counselor William G. Allenbaugh II, MA, CADC. He evaluated respondent on February 23, 2012 for the purpose of a drug and alcohol evaluation. Dr. Allenbaugh diagnosed respondent along Axis I with Major Depressive Disorder without Psychotic Features, and Generalized Anxiety Disorder. Dr. Allenbaugh opined with regard to respondent's readiness to return to nursing:

Records indicate that he is on probation until November of 2012. Reports from probation indicate he has not been a problem and there is no indication of drug abuse. Mr. Kessler desires of [sic] returning into the nursing profession. He refers to it as "my passion and what I want to do." Based on the present assessment, it is this evaluator's professional opinion that Mr. Kessler is capable of returning to his duties as an RN. This would be contingent upon him continuing to receive outpatient mental health treatment and compliance with medications.

8. Respondent receives case management services through Service Access & Management, Inc. He is followed by case managers every two weeks. He also sees a licensed clinical social worker through the Veterans Administration every three to four weeks. Respondent does not participate in any drug and alcohol counseling program at this time. Because Dr. Allenbaugh determined that his underlying mental health issues did not relate to substance abuse issues, respondent did not qualify for drug/alcohol rehabilitation programs for licensed professionals.

9. Respondent was married in 1999. He has two children from that marriage, ages nine and twelve. They reside with their mother in Pennsylvania. Respondent pays child support. He does not see his children, but hopes to return to court to address visitation issues again.

10. Respondent has not worked as a registered nurse over the past four years. He has not attended nursing seminars, but is willing to take nursing education courses to sharpen his nursing skills. Respondent's financial circumstances have made it difficult for him to petition for reinstatement of his Pennsylvania nursing license. He hopes to submit his medical records and criminal background to the Pennsylvania State Board of Nursing next month. He would like to continue practicing as a registered nurse in Pennsylvania. Respondent has no interest in returning to nursing practice in California at this time.

11. In California Code of Regulations, title 16, section 1445, subdivision (b), the Board has set forth the criteria for evaluating the rehabilitation of a licensee who has been convicted of a crime.¹

Respondent has demonstrated some rehabilitation. Over two years have passed since his conviction and discipline by the Pennsylvania Board. He successfully completed the programs ordered by the court and his criminal probation will terminate later this year. Respondent has no other criminal or disciplinary record. There was no evidence that his diversion of Demerol was for any purpose other than his planned suicide. At hearing he expressed only limited insight into the causes for his behaviors. He remains compliant with his medications. His primary care providers opined that he is capable of returning to former registered nursing duties.

12. When all the criteria set forth in California Code of Regulations, title 16, section 1445, subdivision (b), are reviewed, respondent did not show that he is sufficiently rehabilitated to allow him to retain his license. He twice made attempts on his life, both times while licensed. He remains on Social Security disability for Major Depression and Generalized Anxiety Disorder. His mental health appears fragile, and recommendations in favor of his return to nursing were conditioned upon respondent remaining compliant with his medications and current support programs. Respondent has no interest at this time in returning to California. Even were consideration given to granting him a probationary license, respondent would have great difficulty meeting standard Board terms and conditions of probation while residing and working in Pennsylvania. The public interest could not be

¹ California Code of Regulations, title 16, section 1445, subdivision (b), provides:

When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

adequately protected under such circumstances. For these reasons, respondent's license should be revoked at this time.

Costs

13. Complainant has requested that respondent be ordered to pay costs incurred for investigation and enforcement in the total amount of \$180.00 for the legal work performed by the Attorney General's Office in this matter through May 29, 2012.

LEGAL CONCLUSIONS

1. To discipline respondent's license, complainant must prove cause for disciplinary action by clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.)

2. Pursuant to Business and Professions Code section 2761, subdivision (a), the Board may discipline the license of a licensee who has engaged in "[u]nprofessional conduct."

3. Business and Professions Code section 2761, subdivision (a)(4), defines "unprofessional conduct" to include denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board.

4. Cause exists for disciplinary action pursuant to Business and Professions Code section 2761, subdivision (a)(4), by reason of the matters set forth in Findings 2 through 4. Respondent's license to practice professional nursing in the Commonwealth of Pennsylvania was suspended based on his criminal conviction.

5. The matters set forth in Findings 5 through 12 have been considered. While respondent submitted some evidence of rehabilitation, he did not establish that he was sufficiently rehabilitated to retain his registered nurse license. It would be premature to consider issuance of probationary license to respondent at this time as he has no plans to practice as a registered nurse in California.

6. Pursuant to Business and Professions Code section 125.3, a licensee found to have violated a licensing act may be ordered to pay the reasonable costs of investigation and prosecution of a case. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable

challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.


Complainant seeks \$180.00 in costs. When all the *Zuckerman* factors are considered, this cost amount is reasonable.

ORDER

Registered Nurse License Number 689170 issued to Sheldon Leo Kessler is revoked.

Respondent shall pay to the Board costs associated with its investigation and enforcement in the amount of \$180.00.

DATED: June 19, 2012



JONATHAN LEW
Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART
Supervising Deputy Attorney General
4 State Bar No. 083047
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5339
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-206

13 **SHELDON LEO KESSLER**
10675 Route 28 North
14 Brockway, PA 15824
Registered Nurse License No. 689170

ACCUSATION

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
20 Department of Consumer Affairs.

21 2. On or about September 20, 2006, the Board issued Registered Nurse License
22 Number 689170 to Sheldon Leo Kessler ("Respondent"). Respondent's registered nurse license
23 expired on September 30, 2008.

24 **STATUTORY PROVISIONS**

25 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
26 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
27 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
28 Practice Act.

1 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
2 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
3 to render a decision imposing discipline on the license.

4 5. Code section 2761 states, in pertinent part:

5 The board may take disciplinary action against a certified or licensed
6 nurse or deny an application for a certificate or license for any of the following:

7 (a) Unprofessional conduct . . .

8

9 (4) Denial of licensure, revocation, suspension, restriction, or any other
10 disciplinary action against a health care professional license or certificate by another
11 state or territory of the United States, by any other government agency, or by another
12 California health care professional licensing board. A certified copy of the decision
13 or judgment shall be conclusive evidence of that action . . .

12 **COST RECOVERY**

13 6. Code section 125.3 provides, in pertinent part, that the Board may request the
14 administrative law judge to direct a licensee found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 **CAUSE FOR DISCIPLINE**

18 **(Disciplinary Action by the Pennsylvania State Board of Nursing)**

19 7. Respondent is subject to disciplinary action pursuant to Code section 2761,
20 subdivision (a)(4), on the grounds of unprofessional conduct, in that he was disciplined by the
21 Pennsylvania State Board of Nursing, as follows: On or about February 19, 2010, pursuant to the
22 Final Order of Automatic Suspension in the disciplinary proceeding titled "In the Matter of the
23 Automatic Suspension of the License to Practice Professional Nursing of Sheldon Leo Kessler,
24 RN", Docket No. 0177-51-2010, Respondent's license to practice professional nursing in the
25 Commonwealth of Pennsylvania was automatically suspended based on the following criminal

26 ///

27 ///

28 ///


conviction. On November 10, 2009, in the criminal proceeding titled *Commonwealth v. Sheldon Leo Kessler* (Ct. Common Pleas, Clearfield County, PA, 2009, Case No. CP-17-CR-316-2009), Respondent pled guilty to violating section 13(a)(12) of the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. section 780-113(a)(12) (the acquisition or possession of a schedule II controlled substance [Demerol] by misrepresentation, fraud, forgery, deception, or subterfuge, a felony); and section 13(a)(16) of the Drug Act, 35 P.S. section 780-113(a)(16) (knowingly or intentionally possessing a schedule II controlled substance [Demerol] by a person not registered under this Act, a misdemeanor). A true and correct copy of the Final Order of Automatic Suspension is attached as **Exhibit A** and incorporated herein by reference.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 689170, issued to Sheldon Leo Kessler;
2. Ordering Sheldon Leo Kessler to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: October 5, 2011


for LOUISE R. BAILEY, M.Ed., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SA2011101175

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EXHIBIT A

Final Order of Automatic Suspension

COPY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

In the Matter of the Automatic
Suspension of the License to Practice
Professional Nursing of
Sheldon Leo Kessler, RN

Docket No. 0177-51-2010
File No. 2009-51-02714

Department of State

2010 FEB 19 AM 10:41

PROTHONOTARY

FINAL ORDER OF AUTOMATIC SUSPENSION

WHEREAS, the records of the State Board of Nursing reflect that Sheldon Leo Kessler, RN (Respondent) is the holder of a license to practice professional nursing, license number RN-590294, in the Commonwealth of Pennsylvania; and

WHEREAS, on January 26, 2010, the Board issued a Notice and Order of Automatic Suspension that automatically suspended Respondent's license to practice professional nursing under the authority of section 15.1(b) of the Professional Nursing Law; and

WHEREAS, any hearing held in connection with this matter was limited to the issue of whether Licensee was convicted of the offense as alleged or whether the conviction of the offense was for a felony under the Drug Act; and

WHEREAS, having received no response or request for a hearing by Respondent on the issue of whether Respondent was convicted of the offense as alleged or whether conviction of the offense is a felony under the Drug Act;

NOW THEREFORE, the Board ORDERS that the notice and order of automatic suspension issued on January 26, 2010 shall become FINAL.

The Board ORDERS that Respondent shall immediately CEASE practicing the profession. IT IS FURTHER ORDERED that, if he has not already done so, Respondent shall return his wall certificates, wallet cards, and registration certificates to the Board within 10 days of the date of this order by mailing them to:

TRUE AND CORRECT COPY
CERTIFIED FROM THE RECORD
THIS 23rd DAY OF March A.D. 2011

Ral. R. Shearn / Legal Asst.
PROTHONOTARY

Board Counsel
Bureau of Professional and Occupational Affairs
P.O. Box 2649
Harrisburg, PA 17105-2649

This order shall take effect immediately.

BUREAU OF PROFESSIONAL
AND OCCUPATIONAL AFFAIRS


BASIL L. MERENDA
COMMISSIONER

Respondent's address:

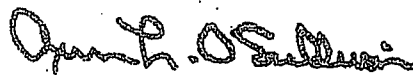
Prosecuting attorney:

Board counsel:

Date of mailing:

BY ORDER:

STATE BOARD OF NURSING


ANN L. O'SULLIVAN, PhD, CRNP, FAAN
CHAIRMAN

Sheldon Leo Kessler, RN
P.O. Box 306
Hyde, PA 16843-0306

Margaret Sheaffer, Esquire

C. William Fritz, II, Esquire

February 19, 2010

COPY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

In the Matter of the Automatic
Suspension of the License to
Practice Professional Nursing of
Sheldon Leo Kessler, RN,
License No. RN-590294

Docket No. 077-51-2010

File No. 2009-51-02714

PROTHONOTARY
2010 JAN 26 AM 7:47
Department of State

NOTICE AND ORDER OF AUTOMATIC SUSPENSION

WHEREAS, the records of the State Board of Nursing (Board) reflect that Sheldon Leo Kessler, RN, (Licensee), is the holder of a license to practice professional nursing in the Commonwealth of Pennsylvania, license number RN-590294; and

WHEREAS, the prosecuting attorney for the Commonwealth has filed a petition for automatic suspension (attachment "A"), including copies of records certified by the Court of Common Pleas of Clearfield County, Pennsylvania, which relate that, on November 10, 2009, in the Court of Common Pleas of Clearfield County, Pennsylvania, in the case of Commonwealth v. Sheldon Leo Kessler, criminal court docket no. CP-17-CR-316-2009, Licensee pled guilty to one felony count of the acquisition or possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge of a schedule II controlled substance (Demerol), in violation of section 13(a)(12) of the Controlled Substance, Drug, Device and Cosmetic Act¹ (Drug Act), 35 P.S. § 780-113(a)(12); and

WHEREAS, on November 10, 2009, in the Court of Common Pleas of Clearfield County, Pennsylvania, criminal court docket no. CP-17-CR-316-2009, in the case of Commonwealth v. Sheldon Leo Kessler, Licensee pled guilty to one misdemeanor count of knowingly or intentionally possessing a schedule II controlled substance (Demerol), by a person not registered under this Act, in violation of section 13(a)(16) of the Drug Act, 35 P.S. § 780-

¹ Act of April 14, 1972 (P.L. 233, No. 64), as amended, 35 P.S. §§ 780-101 et seq.

TRUE AND CORRECT COPY
CERTIFIED FROM THE RECORD
THIS 23rd DAY OF March A.D. 2011

Rae R. Shuman / Legal Ass
PROTHONOTARY

113(a)(16) and, together with the previous action, was sentenced to 90 days to one year incarceration; a consecutive period of two years probation, and ordered to pay costs of prosecution; and

WHEREAS, section 13(a)(12) of the Drug Act, 35 P.S. § 780-113(a)(12), provides as follows:

(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

(12) The acquisition or obtaining of possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge; and

WHEREAS, section 13(f)(2) of the Drug Act, 35 P.S. § 780-113(f)(2), classifies the violation of section 13(a)(12) of the Drug Act as a felony; and

WHEREAS, section 13(a)(16) of the Drug Act, 35 P.S. § 780-113(a)(16), provides:

(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

(16) Knowingly or intentionally possessing a controlled or counterfeit controlled substance by a person not registered under this act, or a practitioner not registered or licensed by the appropriate State board, unless the substance was obtained directly from, or pursuant to, a valid prescription order or order of a practitioner, or except as otherwise authorized by this act.

WHEREAS, section 13(b) of the Drug Act, 35 P.S. § 780-113(b), classifies violation of section 13(a)(16) of the Drug Act as a misdemeanor; and

WHEREAS, section 15.1(b) of the Professional Nursing Law² (Act), 63 P.S. § 225.1(b), provides in pertinent part:

(b) A license issued under this act shall automatically be suspended upon the ... conviction of a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act." ... As used in this section the term "conviction" shall include a judgment, an admission of guilt

² Act of May 22, 1951 (P.L. 317, No. 69), as amended, 63 P.S. §§ 211 *et seq.*

or a plea of nolo contendere. Automatic suspension under this subsection shall not be stayed pending any appeal of a conviction. Restoration of such license shall be made as hereinafter provided in the case of revocation or suspension of such license.

NOW THEREFORE, the Board concludes that Licensee has been convicted of felonies and misdemeanors under the Drug Act, and that the license to practice professional nursing issued to Sheldon Leo Kessler, RN, license no. **RN-590294**, shall be **AUTOMATICALLY SUSPENDED**, under the authority of section 15.1(b) of the Act, effective immediately.

Should Licensee choose to file an answer to the petition and a request for a hearing, Licensee must do so by February 16, 2010, twenty days after the mailing date of this order. **Responses to the Petition and any hearing held in connection with the response shall be limited to the issue of whether Respondent was convicted of the offense(s) as alleged in the petition.** If Licensee files an answer and request for hearing, the suspension of Licensee's license shall remain in effect until a final order is issued addressing the issues raised in the answer.

Answers to the petition, requests for hearing, and petitions for stay shall be filed with the Prothonotary, Bureau of Professional and Occupational Affairs, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17110. A copy of any answer, request for hearing or petition for stay shall be served on the prosecuting attorney identified in the petition at the address set forth below.

Any hearing in connection with this matter shall be scheduled within 30 days of receipt of the request for a hearing. Continuances will only be granted for good cause.

BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS

Basil L. Merenda

BASIL L. MERENDA,
COMMISSIONER

Licensee's address:

Prosecuting attorney:

Board counsel:

Date of mailing:

BY ORDER:

STATE BOARD OF NURSING

Ann L. O'Sullivan

ANN L. O'SULLIVAN, PhD, CRNP, FAAN
CHAIRMAN

Sheldon Leo Kessler, RN
324 Knarr St., Apt A
DuBois, PA 16830

Margaret Sheaffer, Esquire
2601 North Third Street
P.O. Box 2649
Harrisburg, PA 17105-2649

C. William Fritz, II, Esquire

January 26, 2010

ATTACHMENT A

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

PROTHONOTARY
2010 JAN 26 PM 7:47
Department of State

In the Matter of the Automatic
Suspension of the License to
Practice Professional Nursing of
Sheldon Leo Kessler, R.N.
License No. RN590294

Docket No. 0177 51-10
File No. 09-51-02714

PETITION FOR AUTOMATIC SUSPENSION
(FELONY AND MISDEMEANOR)

AND NOW, the Commonwealth of Pennsylvania, by and through its duly authorized prosecuting attorney, Margaret A. Sheaffer, pursuant to Section 15.1(b) of the Professional Nursing Law (Act), 63 P.S. § 225.1(b) and the Controlled Substance, Drug, Device and Cosmetic Act (Drug Act) at 35 P.S. § 780-123(c), files the within Petition for Automatic Suspension, and as grounds states as follows:

1. Sheldon Leo Kessler, R.N. (Respondent) is the holder of Pennsylvania professional nursing license number RN590294 issued by the State Board of Nursing (Board) on November 16, 2007 authorizing the Respondent to practice professional nursing in the Commonwealth of Pennsylvania.

2. The Respondent's license expired on April 30, 2009, but may be renewed thereafter upon the filing of the appropriate documentation and payment of the necessary fees.

3. Respondent retains a property interest in his license until and unless the Board revokes it.

TRUE AND CORRECT COPY
CERTIFIED FROM THE RECORD
THIS 23rd DAY OF March A.D. 2011

Ralph R. Shearer / Legal Ass
PROTHONOTARY

4. At all times pertinent to the allegations in this Petition, the Respondent has been licensed to practice professional nursing in the Commonwealth of Pennsylvania.

5. The Respondent's address with the Board is 324 Knarr Street, Apt: A, DuBois, PA 15801, but he may be incarcerated at the Clearfield County Prison, 115 Twenty-First Street, Clearfield, PA 16830.

6. An Accurant search reveals that his current address may also be 10675 Route 28, Brockway, PA 15824.

7. On or about November 10, 2009, in the Court of Common Pleas of Clearfield County, Pennsylvania, Criminal Court Docket No. CP-17-CR-316-2009 in the case of Commonwealth of Pennsylvania vs. Sheldon Leo Kessler, the Respondent was sentenced after pleading guilty to acquiring or obtaining possession of Demerol, a schedule II controlled substance, by misrepresentation, fraud, forgery, deception or subterfuge, a felony, in violation of Section 13(a)(12), 35 P.S. §780-113(a)(12), of the Act of April 14, 1972 (P.L. 233, No. 64) known as The Controlled Substance, Drug, Device and Cosmetic Act, (Drug Act), 35 P.S. §780-101, et seq. among others.

8. On or about November 10, 2009, Respondent was sentenced to incarceration in the Clearfield County Jail for a minimum of ninety (90) days and a maximum of one (1) year, plus a consecutive period of probation for two (2) years under the supervision of the Clearfield County Department of Probation Services and ordered to pay three hundred dollars (\$300.00) and the costs of prosecution, among others.

9. Certified copies of the Attestation, Criminal Docket, Criminal Complaint and Affidavit of Probable Cause, among others, Information, Negotiated Plea

21 BY KAC
RECEIVED
JUL 14 2010
JUL 14 2010

Agreement and Guilty Plea Colloquy and Sentencing Order related to the case of Commonwealth of Pennsylvania vs. Sheldon Leo Kessler, Criminal Court Docket No. CP-17-CR-316-2009 are attached and incorporated as **Exhibits A, B, C, D, E, and F** respectively.

10. Demerol (meperidine), a synthetic narcotic, is a Schedule II controlled substance as further set forth in the regulations of the Secretary of Health at 28 Pa. Code §25.72(c)(1), 35 P.S. §780-104(2)(i).

11. The Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act, the act of April 14, 1972 (P.L. 233, No. 64), (Drug Act) at 35 P.S. §780-113(a)(12) provides as follows:

(a) The following acts and the causing thereof within the Commonwealth here hereby prohibited:

(12) The acquisition; or obtaining of possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

12. The Drug Act at 35 P.S. §780-113(f)(2) classifies violations of 35 P.S. §780-113(a)(12) regarding Scheduled II Controlled Substances, as follows:

(f) Any person who violates clause . . . (12) of subsection (a) with respect to:

(2) Any other controlled substance or counterfeit substance classified as Schedule I, II, or III is guilty of a felony...

13. Section 15.1(b) of the Professional Nursing Law, 63 P.S. §225.1(b), provides in part:

* *

A license issued under this act shall automatically be suspended upon conviction of a felony under the act of April 14, 1972(P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or conviction of an offense under the laws of another jurisdiction, which if committed in Pennsylvania, would be a felony under "The Controlled Substance, Drug, Device and Cosmetic Act." As used in this section the term "conviction" shall include a judgment, an admission of guilt or a plea of nolo contendere

14. On or about November 10, 2009, in the Court of Common Pleas of Clearfield County, Pennsylvania, Criminal Court Docket No. CP-17-CR-316-2009 in the case of Commonwealth of Pennsylvania vs. Sheldon Leo Kessler, the Respondent was sentenced after pleading guilty to knowingly or intentionally possessing a controlled substance, a misdemeanor, in violation of Section 13 (a)(16), 35 P.S. §780-113(a) (16) of the Drug Act.

15. Certified copies of the Attestation, Criminal Docket, Criminal Complaint and Affidavit of Probable Cause, among others, Information, Negotiated Plea Agreement and Guilty Plea Colloquy and Sentencing Order related to the above charge in the case of Commonwealth of Pennsylvania vs. Sheldon Leo Kessler, Criminal Court Docket No. CP-17-CR-316-2009 are attached and incorporated as **Exhibits A, B, C, D, E, and F** respectively.

16. The Drug Act at 35 P.S. §780-113(a)(16) provides as follows:

(b) The following acts and the causing thereof within the Commonwealth here hereby prohibited:

(16) Knowingly or intentionally possessing a controlled or counterfeit substance by a person not registered under this act, or a practitioner not registered or licensed by the appropriate State board, unless the substance was obtained directly from, or pursuant to, a valid prescription order or order of a practitioner, or except as otherwise authorized by this act.

17. The Drug Act at 35 P.S. §780-113(b) provides in pertinent part, "Any person who violates any of the provisions of clauses (1) through (11), (13) and (15) through (20) or (37) of subsection (a) [Section 13a] shall be guilty of a misdemeanor"

18. Section 123(c) of the Drug Act, 35 P.S. §780-123(c), provides in pertinent part:

The appropriate licensing boards in the Department of State shall automatically suspend, for a period of not to exceed one year, the registration or license of any practitioner when the person has pleaded guilty or nolo contendere or has been convicted of a misdemeanor under this act ...

WHEREFORE, based upon the Respondent's pleas to both felony and misdemeanor crimes under the Drug Act as set forth above, the Commonwealth petitions the Board to notify the Respondent that pursuant to Section 15.1(b) of the Professional Nursing Law Act/Law, 63 P.S. §225.1(b) and the Controlled Substance, Drug and Device and Cosmetic Act at 35 P.S. §780-123(c), Respondent's license to

practice professional nursing in the Commonwealth of Pennsylvania has been automatically suspended and order that the Respondent immediately cease practicing nursing in the Commonwealth of Pennsylvania, surrender his licensure documents to the Board and for such other relief as the Board deems appropriate.

Respectfully submitted,

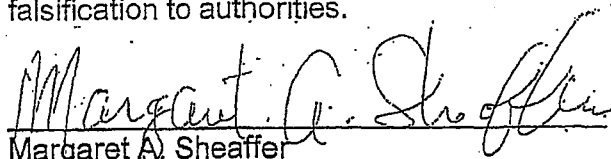
Dated: January 22, 2010 .

By: 

Margaret A. Sheaffer
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State
P.O. Box 2649
Harrisburg, PA 17105-2649
(717) 783-7200

VERIFICATION

I, Margaret A. Sheaffer, do verify that the facts set forth in the foregoing Petition for Automatic Suspension are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


Margaret A. Sheaffer
Prosecuting Attorney
Department of State

Dated: January 22, 2010

ATTESTATION

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

I, Fredric J. Ammerman, P. J. of the Court of Common Pleas of Clearfield County, in the Commonwealth of Pennsylvania, do hereby certify that the said William A. Shaw, is now the Prothonotary/Clerk of Courts of Clearfield County, duly commissioned and qualified; to all whose acts as such, full faith and credit are and ought to be given, as well as in courts of judicature as elsewhere; that the seal thereto annexed is the Seal of said Court; and that the said William A. Shaw is in due form of law, and made by the proper officer.

Dated this 31st day of
December, 2009.

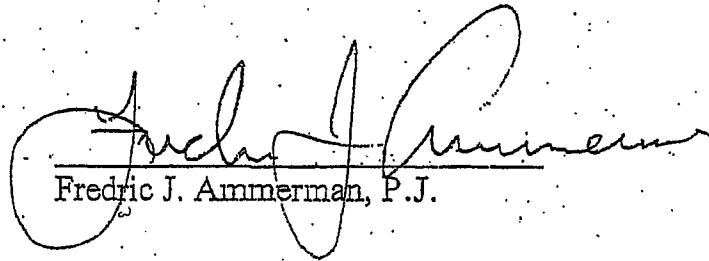

Fredric J. Ammerman, P.J.

EXHIBIT
A

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

DOCKET

Docket Number: CP-17-CR-0000316-2009

CRIMINAL DOCKET

Court Case



Commonwealth of Pennsylvania

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v.
Sheldon Leo Kessler

CASE INFORMATION

Cross Court Docket Nos: CR-0000108-09

Judge Assigned: Ammerman, Fredric J.

OTN: K9260086

Initial Issuing Authority: Richard A Ireland

Arresting Agency: Pennsylvania Office of Attorney General

General

Case Local Number Type(s)

Date Filed: 04/09/2009

Initiation Date: 03/12/2009

Lower Court Docket No: CR-0000108-09

Final Issuing Authority: Richard A Ireland

Arresting Officer: Musser, Duane R.

Case Local Number(s)

STATUS INFORMATION

Case Status: Closed

Status Date

Processing Status

Arrest Date: 03/12/2009

12/16/2009

Completed

11/18/2009

Sentenced/Penalty Imposed

11/18/2009

Awaiting Sentencing

09/17/2009

Awaiting Disposition and

Sentencing

05/18/2009

Warrant Lifted

05/12/2009

Awaiting Pre-Trial Conference

04/30/2009

Warrant Cancelled

04/24/2009

Awaiting Trial

04/09/2009

Awaiting Filing of Information

04/09/2009

Awaiting Formal Arraignment

I hereby certify this to be true and
attested copy of the original
statement filed in this case.

DEC 28 2009

Attest:

William A. Shaw Jr.
Prathonotary/
Clerk of Courts

Complaint Date: 03/12/2009

CALENDAR EVENTS

<u>Case Calendar Event</u> <u>Type</u>	<u>Schedule</u> <u>Start Date</u>	<u>Start</u> <u>Time</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule</u> <u>Status</u>
Formal Arraignment	04/29/2009	1:30 pm	Hearing Room 1		Scheduled
Motions Court	05/12/2009	1:30 pm	Courtroom #1	President Judge Fredric J. Ammerman	Scheduled
Motions Court	08/11/2009	1:30 pm	Courtroom #1	President Judge Fredric J. Ammerman	Scheduled
Criminal Call	09/17/2009	9:00 am	Courtroom #1	William A. Shaw Jr.	Scheduled
Sentencing	11/10/2009	9:00 am	Courtroom #1	President Judge Fredric J. Ammerman	Scheduled

**EXHIBIT
B**

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

DOCKET

Docket Number: CP-17-CR-0000316-2009

CRIMINAL DOCKET

Court Case



Commonwealth of Pennsylvania

V.

Sheldon Leo Kessler

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DEFENDANT INFORMATION

Date Of Birth: 08/05/1974 City/State/Zip: Clearfield, PA 16830

CASE PARTICIPANTS

Participant Type	Name
Defendant	Kessler, Sheldon Leo

BAIL INFORMATION

Kessler, Sheldon Leo

Nebbia Status: None

Bail Action	Date	Bail Type	Percentage	Amount	Bail Posting Status	Posting Date
Set	03/12/2009	Unsecured		\$25,000.00		
Revoke	04/09/2009	Unsecured		\$25,000.00		
					Posted	03/12/2009

CHARGES

Seq.	Orig Seq.	Grade	Statute	Statute Description	Offense Date	OTN
1	1	F	35 § 780-113	§§A12 Acq Or Obt Poss Of Contr Subs Misre	01/23/2009	K9260086
2	3	M	35 § 780-113	§§A16 Int Poss Contr Subst By Per Not Reg	01/23/2009	K9260086
3	2	M3	18 § 3921	§§A Theft By Unlaw Taking-Movable Prop	01/23/2009	K9260086

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

DOCKET

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Sheldon Leo Kessler

DISPOSITION SENTENCING/PENALTIES

Disposition

Case Event

Sequence/Description

Sentencing Judge

Sentence/Diversion Program Type

Sentence Conditions

Linked Offense - Sentence

Disposition Date

Offense Disposition

Sentence Date

Incarceration/Diversionary Period

Link Type

Final Disposition

Section

Credit For Time Served

Start Date

Linked Docket Number

Lower Court Proceeding (generic)

Lower Court Disposition

1 / Acq Or Obt Poss Of Contr Subs Misre

2 / Int Poss Contr Subst By Per Not Reg

3 / Theft By Unlaw Taking-Movable Prop

04/08/2009

Held for Court (Lower Court)

Held for Court (Lower Court)

Held for Court (Lower Court)

Not Final

35§780-113§§A12

35§780-113§§A16

18§3921§§A

Proceed to Court

Information Filed

1 / Acq Or Obt Poss Of Contr Subs Misre

2 / Int Poss Contr Subst By Per Not Reg

3 / Theft By Unlaw Taking-Movable Prop

04/24/2009

Proceed to Court

Proceed to Court

Proceed to Court

Not Final

35§780-113§§A12

35§780-113§§A16

18§3921§§A

Guilty Plea

Sentencing

1 / Acq Or Obt Poss Of Contr Subs Misre

Ammerman, Fredric J.

Confinement

11/10/2009

Guilty Plea

11/10/2009

Min of 90.00 Days

Max of 1.00 Years

Other

Final Disposition

35§780-113§§A12

11/15/2009

Warden

Eligible (Sentence Specified) - Re-Entry Plan

Probation

Min of 2.00 Years

Max of 2.00 Years

Length of Term

Alcohol/Drugs

Counseling

Other

18§3921§§A - Probation

Concurrent From Seq. 3

CP-17-CR-0000316-2009

2 / Int Poss Contr Subst By Per Not Reg

Ammerman, Fredric J.

Merged

Guilty Plea

11/10/2009

35§780-113§§A16

3 / Theft By Unlaw Taking-Movable Prop

Guilty Plea

18§3921§§A

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

DOCKET

Docket Number: CP-17-CR-0000316-2009

CRIMINAL DOCKET

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DISPOSITION SENTENCING/PENALTIES

Disposition

Case Event

Sequence/Description

Sentencing Judge

Sentence/Diversion Program Type

Sentence Conditions

Linked Offense - Sentence

Ammerman, Fredric J.
Probation

35§780-113§§A12 - Probation

Disposition Date

Offense Disposition

Sentence Date

Incarceration/Diversionary Period

Link Type

11/10/2009

Min of 1.00 Years

Max of 1.00 Years

Length of Term

Concurrent To Seq. 1

Final Disposition

Section

Credit For Time Served

Start Date

Linked Docket Number

CP-17-CR-0000316-2009

COMMONWEALTH INFORMATION

Name:

Earle David Lees Jr., Esq.
District Attorney

Supreme Court No:

Phone Number(s):

(814) 375-9310 (Phone)

(814) 375-9525 (Fax)

Address:

Clearfield Co. District Attorney's Office
230 E. Market St.
Suite 210
Clearfield PA 16830

ATTORNEY INFORMATION

Name:

Public Defender
Public Defender

Supreme Court No:

Rep. Status:

Active

Phone Number(s):

(814) 765-2641 (Phone)

Address:

230 East Market St.
Clearfield PA 16830

Representing: Kessler, Sheldon Leo

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

DOCKET

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CRIMINAL DOCKET

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Commonwealth of Pennsylvania

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ENTRIES

Sequence Number	CP Filed Date	Document Date	
2	03/12/2009		Bail Posted - Kessler, Sheldon Leo Kessler, Sheldon Leo
1	04/09/2009		Revoke/Release and Forfeit Ball - Kessler, Sheldon Leo Ammerman, Fredric J.
3	04/09/2009		Original Papers Received from Lower Court Court of Common Pleas - Clearfield County
1	04/13/2009	04/09/2009	Bench Warrant Issued 4-9-09, Defendant failed to appear for a Preliminary Hearing on 4-8-09. Order of Court Bench Warrant issue forthwith. Bail is hereby revoked. /s/ FJA, P.J. Shff. DA PO Ammerman, Fredric J.
1	04/24/2009		Information Filed Commonwealth of Pennsylvania
1	04/30/2009		Order Cancelling Bench Warrant had to cancel the existing Bench Warrant in order to issue another Bench Warrant per Court Order of 4/29/09 below Ammerman, Fredric J.
2	04/30/2009	04/29/2009	Order/Bench Warrant Issued NOW, this April 29, 2009, this being date set for Arraignment Court and the Deft. having failed to appear, it is the ORDER of this Court that bail/bond be revoked/forfeited and a BENCH WARRANT be issued forthwith. BY THE COURT: /s/FJA, P.J. (see file for Orig.) Copies to DA, V/W, PO, PD, Shff. Ammerman, Fredric J.

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

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ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	
1	05/05/2009	05/05/2009	Order Scheduling Hearing on Petition to Lift Bench Warrant/Reinstate Bail NOW, 5/5/09, upon consideration of the foregoing Petition to Lift Bench Warrant and Reinstate Bail, ORDER that hearing/argument on said Motion is scheduled for the 12th day of May, 2009 at 1:30 p.m., Courtroom No. 1. BY THE COURT/S/FJA cc: 5 PD Ammerman, Fredric J.
2	05/05/2009		Petition to Lift Bench Warrant and Reinstate Bail 5 cert. copies to P.D. Defender, Public
1	05/12/2009		Arraignment Walver Form Defender, Public
1	05/18/2009	05/12/2009	Order Lifting Bench Warrant NOW, this May 12, 2009, the Petition to Lift Bench Warrant is hereby granted to the extent that Bench Warrant issued as a result of Defendant's failure to appear for Arraignment Court on April 29, 2009, is hereby lifted. However, the Court has been made aware that a separate Bench Warrant exists for Defendant's failure to appear for a previously scheduled preliminary hearing. This Order does not lift that Bench Warrant. BY THE COURT: /s/FJA, P.J. (see file for Orig.) Copies to CA, DA, V/W, PO, PD, Jail, Shff. Ammerman, Fredric J.
1	06/18/2009		Sheriff Return Filed Sheriff return filed - \$9.00 sheriff costs added. Clearfield County Sheriff's Department
1	08/07/2009		Motion to Lift Bench Warrant and Set Bail 5 cert. copies to P.D. Clearfield County Public Defender's Office

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

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ENTRIES

Sequence Number	CP Filed Date	Document Date
-----------------	---------------	---------------

2

08/07/2009

08/07/2009

Scheduling Order

8-7-09, Motion to Lift Bench Warrant and Set Bail, Order of Court hearing/argument is scheduled for 8-11-09, at 1:30 pm in Courtroom 2. BY THE COURT: /s/ FJA, P.J.

5 cc PD

Ammerman, Fredric J.

1

08/14/2009

08/11/2009

Order Denying Motion to Lift Bench Warrant

NOW, 8/11/09, following argument on Defs. Motion to Lift Bench Warrant and Set Bail, ORDER of this Court that said Motion be and is hereby denied. BY THE COURT/S/FJA

cc: CA, DA, PO, V/W, PD

Ammerman, Fredric J.

1

09/17/2009

Negotiated Plea Agreement and Guilty Plea Colloquy

Clearfield County District Attorney's Office

1

11/18/2009

Guilty Plea

Ammerman, Fredric J.

2

11/18/2009

11/10/2009

Order - Sentence/Penalty Imposed

NOW, 11/10/09, Def. having entered Guilty Plea to Acquisition of a Controlled Substance by Fraud, (Demoral) ungraded Felony, SENTENCE of this Court that Def. pay \$300.00 plus costs, be incarcerated in CCJ for a term the minimum of which shall be 90 days and the maximum shall be 1 yr., plus a consecutive period of probation of 2 yrs., with the period of incarceration to be initiated by the Def. reporting to the CCJ by no later than 7:00 on Sunday, November 15, 2009; effective immediately, Def. to refrain from possession/use of alcoholic bevs/controlled subs., upon release, def. to attend/complete drug and alcohol counseling at Two Roads Counseling in Hyde, PA and be responsible for all costs associated therewith. Def. to submit to DNA testing and pay \$250.00 costs associated therewith.

Charge of Theft by Unlawful Taking, M/3, Def. to serve a period of probation of 1 yr., to be served concurrent to above. The Court notes that the charge of Possession of a Controlled Substance, ungraded Misdemeanor, merges with Acquisition of a Controlled Substance, an ungraded Felony.

Def. may be eligible to participate in this county's re-entry plan, which includes the work release program, earned time credit program, IPP program, and early release program. The court notes that all participants must be approved by the court prior to entering any program. BY THE COURT/S/FJA

cc: DA, V/W, PO, PD, Jail, Def., A.G. Office

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

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ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	
			Ammerman, Frédéric J.
2	12/09/2009		
			DL-21D to be Prepared
			Shaw, William A.
1	12/16/2009	12/16/2009	
			Order Lifting Bench Warrant
			NOW, 12/16/09, it is the ORDER of this Court that any Bench Warrant previously issued to this docket be and is hereby lifted. BY THE COURT/S/FJA
			cc: Shff, 4 DA
			Ammerman, Fredric J.

PAYMENT PLAN SUMMARY

<u>Payment Plan No</u>	<u>Payment Plan Freq</u>	<u>Next Due Date</u>	<u>Active</u>	<u>Overdue Amt</u>
<u>Responsible Participant</u>		<u>SID</u>	<u>Suspended</u>	<u>Next Due Amt</u>

17-2009-P1108	Monthly	12/31/2009	True	\$0.00
Kessler, Sheldon Leo			False	\$14.00

<u>Payment Plan History:</u>	<u>Payment Date</u>	<u>Payor Name</u>	<u>Participant Role</u>	<u>Amount</u>
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COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

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Docket Number: CP-17-CR-0000316-2009

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Grand Totals:	\$927.50	\$0.00	-\$1.00	\$0.00	\$926.50
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** - Indicates assessment is subrogated

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Magisterial District Number: 46-3-02

MDJ: Hon. Richard A. Ireland

Address: 650 Leonard Street
Clearfield, PA. 16830

Telephone: (814)765-5335



POLICE CRIMINAL COMPLAINT
COMMONWEALTH OF PENNSYLVANIA
VS.

FILED

APR 09 2009

DEFENDANT:

(NAME and ADDRESS):

Sheldon Leo Kesslet

First Name

Middle Name

Last Name

Gen.

1618 Robinson Avenue
Hyde, PA. 16843

CP-17-CR-316-2009

- ☐ 1-Felony Full ☐ 5-Felony Pend. ☐ B-Misdemeanor Limited ☐ E-Misdemeanor Pending
☐ 2-Felony Ltd. ☐ C-Misdemeanor Surrounding States
☒ 3-Felony Surrounding States ☐ A-Misdemeanor Full ☐ D-Misdemeanor No Extradition
☐ Distance: _____

DEFENDANT IDENTIFICATION INFORMATION

RACE <input checked="" type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Native American <input type="checkbox"/> Unknown	ETHNICITY <input type="checkbox"/> Hispanic <input checked="" type="checkbox"/> Non-Hispanic <input type="checkbox"/> Unknown	Docket Number CE 108-09	Date Filed 3/12/09	OTN/LiveScan Number K926008-6	Complaint/Incident Number BN40079-09C
DOB 08/05/1974		POB Lancaster, PA.			
Add'l DOB - / /		SSN Redacted			
GENDER <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		First Name	Middle Name	Last Name	Gen.
SID:		AKA			

Request Lab Services? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	HAIR COLOR <input checked="" type="checkbox"/> GRY (Gray) <input type="checkbox"/> BLK (Black) <input type="checkbox"/> BRN (Brown) <input type="checkbox"/> BLU (Blue) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> RED (Red/Auburn) <input type="checkbox"/> BUN (Blonde/Strawberry) <input type="checkbox"/> PLE (Purple) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> SDY (Sandy) <input type="checkbox"/> WHI (White) <input type="checkbox"/> XXX (Unk/Bald)	EYE COLOR <input type="checkbox"/> GRN (Green) <input type="checkbox"/> BLK (Black) <input type="checkbox"/> BLU (Blue) <input type="checkbox"/> BRO (Brown) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> MUL (Multicolored) <input type="checkbox"/> HAZ (Hazel) <input type="checkbox"/> MAR (Maroon) <input type="checkbox"/> XXX (Unknown)
--	---	---

Driver License <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	State PA	License Number 29170674	Expires: 08/06/2010	WEIGHT (lbs) 220
DNA <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DNA Location	INN Number	FEET (in)	HEIGHT (in)

DEFENDANT VEHICLE INFORMATION

Plate #	State	Hazmat <input type="checkbox"/>	Registration Sticker (MM/YY)	Comm'l Veh. Ind. <input type="checkbox"/>	School Veh. <input type="checkbox"/>	Oth. NCIC Veh. Code
VIN	Year	Make	Model	Style	Color	

Office of the attorney for the Commonwealth ☒ Approved ☐ Disapproved because:

(The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing. See Pa.R.Crim.P. 507).

William A. Shaw, Jr.

(Name of the attorney for the Commonwealth)

(Signature of the attorney for the Commonwealth)

3/11/09

I hereby certify this to be true and attested copy of the original statement filed in this case.

I, Duane R. Musser
(Name of the Affiant)

PA OAG/BNI #387
(PSP/MPOETC -Assigned Affiant ID Number & Badge #)

of the Pennsylvania Office of Attorney General
(Identify Department or Agency Represented and Political Subdivision)
do hereby state: (check appropriate box)

PA0141300
(Police Agency ORI Number)

DEC 28 2009

1. ☒ I accuse the above named defendant who lives at the address set forth above
☐ I accuse the defendant whose name is unknown to me but who is described as

Attest

Prothonotary
Clerk of Courts

☐ I accuse the defendant whose name and popular designation or nickname are unknown to me and whom I have therefore designated as John Doe or Jane Doe

with violating the penal laws of the Commonwealth of Pennsylvania at [404] Clearfield Hospital, 809 Turnpike Avenue,
Clearfield, PA. 16830 (Subdivision Code) (Place/Political Subdivision)

in CLEARFIELD County [17] on or about January 23, 2009
(County Code)

EXHIBIT
C



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 11	OTN/LiveScan Number	Complaint/Incident Number: BN40079-09C
Defendant Name:	First: Sheldon	Middle: Leo	Last: Kessler

2. I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
3. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 P.A.C.S. §4904) relating to unsworn falsification to authorities.
4. This complaint is comprised of the preceding Page, as well as the attached pages that follow, numbered 1 through 4, specifying offenses and Participants, if any.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.
(Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

3.9.09

Quarrel M. M...
(Signature of Affiant)

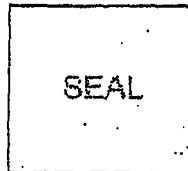
AND NOW, on this date 3.9.09 I certify that the complaint has been properly completed and verified.

An affidavit of probable cause must be completed before a warrant can be issued.

46-302

(Magisterial District Court Number)

[Signature]
(Issuing Authority)





POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: / /	OTN/LiveScan Number	Complaint/Incident Number: BN40079-09C
Defendant Name:	First: Sheldon	Middle: Leo	Last: Kessler

The acts committed by the accused are described below with each Act of Assembly or statute violated, if appropriate:
(Set forth a *brief* summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated.)

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	<input type="checkbox"/> A1 (Engaging)	<input type="checkbox"/> A2 (Aiding)	<input type="checkbox"/> B (Knowledge)	<input type="checkbox"/> Permitting (Title 75 Only) 75 1575 A
------------------	---	--	--	--	--------------------------------------	--	---

<input checked="" type="checkbox"/> 1	780-113	(a) 12	on the	Title 35	1	UNG	3542	
Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
------------------------------	-----------------	--------------------------------------	------------------------------------

Statute Description/Acts of the accused associated with this Offense: PROHIBITED ACTS: The defendant acquired or obtained a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge. To wit:

On January 23, 2009 the defendant obtained Demerol (a Schedule II Controlled Substance) for personal use from a Pyxis dispensing machine inside Clearfield Hospital, Clearfield, PA after indicating in Pyxis records that he was obtaining Ativan for a patient.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	<input type="checkbox"/> A1 (Engaging)	<input type="checkbox"/> A2 (Aiding)	<input type="checkbox"/> B (Knowledge)	<input type="checkbox"/> Permitting (Title 75 Only) 75 1575 A
------------------	---	--	--	--	--------------------------------------	--	---

<input type="checkbox"/> 2	3921	(a)	on the	Title 18	1	M 3	2303	
Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
------------------------------	-----------------	--------------------------------------	------------------------------------

Statute Description/Acts of the accused associated with this Offense: THEFT BY UNLAWFUL TAKING OR DISPOSITION:

The defendant unlawfully took, or exercised unlawful control, over movable property of another with intent to deprive him thereof.

To wit:

On January 23, 2009 the defendant took two (2) 50 mg. Demerol tubex (a Schedule II Controlled Substance) valued at \$2.05 from the Clearfield Hospital at 809 Turnpike Avenue, Clearfield, PA.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	<input type="checkbox"/> A1 (Engaging)	<input type="checkbox"/> A2 (Aiding)	<input type="checkbox"/> B (Knowledge)	<input type="checkbox"/> Permitting (Title 75 Only) 75 1575 A
------------------	---	--	--	--	--------------------------------------	--	---

<input type="checkbox"/> 3	780-113	(a) 16	on the	Title 35	1	UNG	3542	
Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
------------------------------	-----------------	--------------------------------------	------------------------------------

Statute Description/Acts of the accused associated with this Offense: PROHIBITED ACTS:

Knowingly or intentionally possessing a controlled substance by a person not registered or licensed under this act.

To wit:

On January 23, 2009 the defendant knowingly obtained and possessed Demerol (a Schedule II Controlled Substance) in Clearfield County knowing he was not registered or licensed to possess the Controlled Substance.



CRIMINAL COMPLAINT

Docket Number:	Date Filed: 1/1	OTN/LiveScan Number	Complaint/Incident Number BN40079-09C
Defendant Name:	First: Sheldon	Middle: Leo	Last: Kessler

AFFIDAVIT of PROBABLE CAUSE

1. Your affiant is Duane R. Musser, Narcotics Agent employed by the Commonwealth of Pennsylvania, Office of Attorney General, Bureau of Narcotics Investigation and Drug Control. Your affiant has been specifically assigned to the Drug Diversion Unit, a specialty unit involved in the investigation of the abuse and diversion of prescription drugs.
2. Clearfield Hospital, 809 Turnpike Avenue, Clearfield, PA, uses an automated narcotic dispensing instrument hereafter referred to as Pyxis. The Pyxis is accessed by a nurse only after the user's fingerprint or personal code verifies the user's identity. Once verified as a valid user, the nurse must enter the patient's name, drug, quantity and strength of the drug to be dispensed. The Pyxis then records the date and time of the request. A drawer will then open allowing the user access to only the requested medication. A recorded history of this information can then be accessed by nurse and pharmacy managers. Medication removed from the Pyxis but not administered to the patient must be wasted or returned and so documented.
3. The defendant is licensed by the Pennsylvania Department of State as a Registered Nurse (#RN590294). As a registered nurse employed by the Clearfield Hospital, he has access to the Pyxis via fingerprint identification.
4. Demerol is a Schedule II Controlled Substance
5. On January 23, 2009 the defendant was working in the 2nd Floor Medical Surgical Unit of the Clearfield Hospital. At 9:47 PM the defendant accessed the Pyxis via user ID and fingerprint identification to obtain Ativan for a patient. While obtaining the Ativan, the defendant also pruned open the compartment containing tubexs of 50 mg. Demerol and removed two Demerol Tubexs. The defendant made no record or documentation of the Demerol removal from the Pyxis and made no record of Demerol administration.
6. On February 27, 2009 the affiant interviewed the defendant. The defendant admitted he took the two Demerol Tubexs on January 23, 2009. The defendant said he also removed needles from the hospital and later, after leaving the hospital, self-injected both doses of Demerol.

I, Duane R. Musser, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Duane R. Musser

(Signature of Affiant)

Sworn to me and subscribed before me this 3-9-09 day of March, 2009.

3-9-09

Date

[Signature], Magisterial District Judge

My commission expires first Monday of January,

SEAL

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:	46-3-02
MOJ Name: Hon.	RICHARD A. IRELAND
Address:	650 LEONARD ST STE 113 CLEARFIELD, PA
Telephone:	(814) 765-5335 16830

**NOTICE OF
PRELIMINARY HEARING**

COMMONWEALTH OF
PENNSYLVANIA

VS.
DEFENDANT: NAME and ADDRESS.
**KESSLER, SHELDON LEO
1618 ROBINSON AVE
HYDE, PA 16843**

**CENTRAL COURT CLEARFIELD 46-0-00
CLEARFIELD COUNTY PRISON
410 21ST ST
CLEARFIELD, PA 16830**

Docket No.: **CR-0000108-09**
Date Filed: **3/12/09**
K 926008-6



Charge(s):

**S 35 \$780-113 \$SA12 ACQ OR OBT POSS OF CONTR SUBS MISRE
S 18 \$3921 \$SA THEFT BY UNLAWFUL TAKING
S 35 \$780-113 \$SA16 INT POSS CONTR SUBST BY PER NOT REG**

NOTICE TO DEFENDANT

A complaint has been filed charging you with the offense(s) set forth above and on the attached copy of the complaint. A preliminary hearing on these charges has been scheduled for:

Date: 3/18/09	Place: CENTRAL CLEARFIELD 46-0-00 CLEARFIELD COUNTY PRISON 410 21ST ST CLEARFIELD, PA 16830 814-765-2641
Time: 10:15AM	

If you fail to appear at the time and place above without good cause, you will be deemed to have waived your right to be present at any further proceedings before the Magisterial District Judge and the case will proceed in your absence. If any of the charges against you are held for court, a request for a bench warrant against you will be transmitted to the Court of Common Pleas.

At the preliminary hearing you may:

1. Be represented by counsel;
2. Cross-examine witnesses and inspect physical evidence offered against you;
3. Call witnesses on your behalf other than witnesses to testify to your good reputation only, offer evidence on your behalf and testify;
4. Make written notes of the proceeding, or have your counsel do so, or make a stenographic, mechanical or electronic record of the proceedings.

If you cannot afford to hire an attorney, one may be appointed to represent you. Please contact the office of the Magisterial District Judge for additional information regarding the appointment of an attorney.

If you have any questions, please call the above office immediately.

3/12/09 Date *Richard Ireland*

My commission expires first Monday of January, 2012.



If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

COMPLAINT NUMBER: **BN4007909C**
ALL COPIES PRINTED

DATE PRINTED: **3/12/09 8:21:51 AM**
DATE COMPLAINT SIGNED: **3/09/09**

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No:	46-3-02
MDJ Name: Hon.	RICHARD A. IRELAND
Address:	650 LEONARD ST STE 113 CLEARFIELD, PA Telephone: (814) 765-5335 16830

**CENTRAL COURT CLEARFIELD 46-0-00
CLEARFIELD COUNTY PRISON
410 21ST ST
CLEARFIELD, PA 16830**

NOTICE OF CONTINUANCE

COMMONWEALTH OF
PENNSYLVANIA

VS.
DEFENDANT: NAME and ADDRESS
**KESSLER, SHELDON LEO
1618 ROBINSON AVE
HYDE, PA 16843**

Docket No.: **CR-0000108-09**
Date Filed: **3/12/09**
K 926008-6



Please note that the hearing in the above captioned case, which was scheduled to occur on: **3/18/09**
has been continued to:

Date: 4/08/09	Place: CLEARFIELD COUNTY PRISON 410 21ST ST CLEARFIELD, PA 16830
Time: 11:15 AM	

If you have any questions, please contact this office immediately.

Continuance requested by: **MUSSER, DUANE R**

If you are disabled and require assistance, please contact the Magisterial District office at the address above.

3/12/09 Date

Richard Ireland

My commission expires first Monday of January, **2012**



COMPLAINT NUMBER:
AOPC 616-05

DATE PRINTED: **3/12/09 9:38:56 AM**
DATE COMPLAINT SIGNED: **3/09/09**

SURETY INFORMATION PAGE

OTN: K 926008-6	MDJ No: 46-3-02	Date of Charge(s): 1/23/09
CC No:	MDJ Docket No: CR-0000108-09	
Commonwealth vs. (Defendant Name and Address) KESSLER, SHELDON LEO 1618 ROBINSON AVE HYDE, PA 16843	NEXT COURT ACTION Date/ Time/ Location 4/08/09 11:15AM CLEARFIELD COUNTY PRISON 410 21ST ST CLEARFIELD, PA 16830	

I, **KESSLER, SHELDON LEO**, the undersigned surety, have posted security in the amount of \$ _____.

UNSECURED BAIL**TYPES OF SECURITY**

- | | | |
|--|---|--|
| <input type="checkbox"/> Cash/Equivalent | <input type="checkbox"/> Gov't Bearer Bonds | <input type="checkbox"/> Realty w/in Commonwealth |
| <input type="checkbox"/> _____ % Cash | <input type="checkbox"/> Surety Bond | <input type="checkbox"/> Realty Outside Commonwealth |

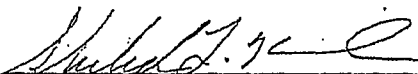
I have read this information, and I acknowledge that I, my personal representatives, successors, heirs and assigns are jointly and severally bound with the defendant and any other sureties to pay to the Commonwealth of Pennsylvania the sum of \$ **25,000.00**, which is the full amount of the monetary condition of release in the event the bail bond is forfeited.

I understand that when a monetary condition of release is imposed, if the defendant appears at all times required by the court and satisfies all the other conditions set forth in the bail bond, then upon full and final disposition of the case, this bond shall be void. If the defendant fails to appear as required or to comply with the conditions of the bail bond, then this bond shall remain in full force, and the full sum of the monetary condition of release may be forfeited, the defendant's release may be revoked, and a warrant for the defendant's arrest may be issued.

WARRANT OF ATTORNEY: RECOGNIZING THAT I AM WAIVING CERTAIN IMPORTANT RIGHTS, INCLUDING THE RIGHT OF PREJUDGMENT NOTICE AND HEARING, in accordance with the law, I do hereby empower any attorney of any court of record within the Commonwealth of Pennsylvania or elsewhere to appear for me at any time, and with or without declarations filed, and whether or not the defendant be in default, to confess judgment against me, and in favor of the Commonwealth of Pennsylvania for use of the county, and its assigns, during any term or session of a court of record of the county for the full amount of the monetary condition of release set forth on the first page of this bail bond, and costs. I understand that any real estate which I have posted as security in this case may be levied upon to collect the amount confessed. I waive and release any right of inquisition on that real estate, voluntarily condemn it, and authorize the Prothonotary, upon a Writ of Execution, to enter my voluntary condemnation. I also agree that any real estate posted by me in this case may be sold on a Writ of Execution. I hereby forever waive and release any and all errors which may arise in any proceeding to confess judgment in this case, waive all rights of stay of execution, and waive all laws now in force or laws passed in the future which exempt real or personal property from execution.

Since a copy of this bail bond and warrant of attorney is being filed in the defendant's case, it shall not be necessary to file the original as a warrant of attorney, notwithstanding any law or rule of court to the contrary.

I, **KESSLER, SHELDON LEO**, verify that the facts set forth in this form are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. Section 4904) relating to unsworn falsification to authorities.


(Signature of Surety, signed in all bail situations, except ROR)

1618 ROBINSON AVE
HYDE, PA 16843

(Address of Surety, Surety Company or Defendant)


(Witness/Bail Authority)

(SEAL)

* Refund of all bail (less any bail related fees or commissions allowed by law and reasonable costs, if any, of administering the cash bail program) will be made within 20 days after full and final disposition. (Pa.R.Crim.P. 535)

* Bring Cash Bail Receipt to Clerk of Courts or Issuing Authority.

BAIL BOND

OTN: K 926008-6	MDJ No: 46-3-02	Date of Charge(s): 1/23/09
CC No:	MDJ Docket No: CR-0000108-09	
Commonwealth vs. (Defendant Name and Address) KESSLER, SHELDON LEO 1618 ROBINSON AVE HYDE, PA 16843		NEXT COURT ACTION Date/ Time/ Location 4/08/09 11:15AM CLEARFIELD COUNTY PRISON 410 21ST ST CLEARFIELD, PA 16830

CHARGE(S): **S 35 \$780-113 \$SA12 ACQ OR OBT POSS OF CONTR SUBS MISRE**
S 18 \$3921 \$SA THEFT BY UNLAWFUL TAKING
S 35 \$780-113 \$SA16 INT POSS CONTR SUBST BY PER NOT REG

ADDITIONAL CHARGES MAY EXIST. PLEASE SEE ADDITIONAL CHARGES PAGE.

TYPE(S) OF RELEASE:

☐ ROR ☒ Unsecured Bail ☐ Nonmonetary Condition(s) (see additional page(s))
☐ Nominal Bail ☐ Monetary Condition(s) in the amount of \$ _____

THE CONDITIONS OF THIS BAIL BOND ARE AS FOLLOWS:

1. The defendant must appear at all times required until full and final disposition of the case.
2. The defendant must obey all further orders of the bail authority.
3. The defendant must give written notice to the bail authority, the clerk of courts, the district attorney, and the court bail agency or other designated court bail officer, of any change of address within 48 hours of the date of the change.
4. The defendant must neither do, nor cause to be done, nor permit to be done on his/her behalf, any act as proscribed by Section 4952 of the Crimes Code (relating to intimidation of witnesses or victims) or by Section 4953 (relating to retaliation against witnesses or victims), 18 Pa.C.S. §§ 4952, 4953.
5. The defendant must refrain from criminal activity.
6. The defendant must comply with any fingerprint order, if any is issued by this court.

I verify that the above conditions of bail have been imposed.

 Signature

My commission expires first Monday of January, **2012**

TYPES OF SECURITY:

☐ Cash/Equivalent ☐ Gov't Bearer Bonds ☐ Realty w/in Commonwealth
☐ _____ % Cash ☐ Surety Bond ☐ Realty outside Commonwealth

TOTAL AMOUNT BAIL SET (IF ANY): \$ **25,000.00** (see sureties page)

BAIL DEPOSITOR(S):

Depositor Name _____ Amount _____

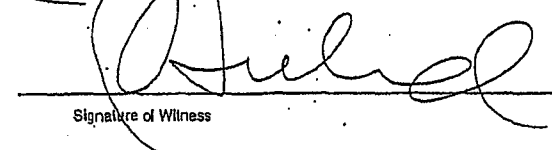
This bond is valid for the entire proceedings and until full and final disposition of the case including all avenues of direct appeal to the Supreme Court of Pennsylvania.

AGREE THAT I WILL APPEAR AT ALL SUBSEQUENT PROCEEDINGS AS REQUIRED AND COMPLY WITH ALL THE CONDITIONS OF THE BAIL BOND.

HIS BOND SIGNED ON 3.12.09


PENNSYLVANIA

(Signature of Defendant)


Signature of Witness

(Surety)

(Surety)

PLEASE SEE ATTACHED PAGES FOR ADDITIONAL INFORMATION.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.	46-3-02
Mag. Name, Hon.	RICHARD A. IRELAND
Address	650 LEONARD ST STE 113 CLEARFIELD, PA
Telephone	(814) 765-5335 16830

**REQUEST FOR ISSUANCE
OF BENCH WARRANT**

COMMONWEALTH OF
PENNSYLVANIA

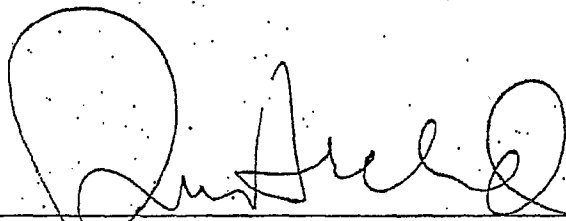
VS.
DEFENDANT: NAME and ADDRESS
**KESSLER, SHELDON LEO
1618 ROBINSON AVE
PO BOX 306
HYDE, PA 16843**

Docket No.: **CR-0000108-09**
Date Filed: **3/12/09**
OTN: **K 926008-6**



TO THE COURT OF COMMON PLEAS:

In the named defendant's absence, the above captioned case was held for court pursuant to Pa.R.Crim.P. 543(D), and it is requested that the court issue a bench warrant for the named defendant.

4.8.09 Date  Magisterial District Judge

My commission expires first Monday of January, **2012**

SEAL

**NOTICE OF
PRELIMINARY HEARING RESULTS**

46-3-02

RICHARD A. IRELAND

STE 113

CLEARFIELD, PA

Telephone: (814) 765-5335 16830

COMMONWEALTH OF
PENNSYLVANIA

VS.

NAME and ADDRESS

KESSLER, SEELDON LEO

1618 ROBINSON AVE

PO BOX 306

HYDE, PA 16843

M. D. J.

Docket No.: CR-0000108-09

Date Filed: 3/12/09

K 926008-6



04/08/09

DISPOSITION

S 35 §780-113 §5A12 ACQ OR OBT POSS OF CONTR SUBS
S 18 §3921 §5A THEFT BY UNLAW TAKING-MOVABLE PROP
S 35 §780-113 §5A16 INT POSS CONTR SUBST BY PER NO

HELD FOR COURT
HELD FOR COURT
HELD FOR COURT

PLEASE SEE THE ATTACHED SHEET(S), IF ANY, FOR ADDITIONAL CHARGES.

If any of the charges against you have been held for court, a request for a bench warrant against you has been transmitted to the Court of Common Pleas.

4.809

Date _____

Magisterial District Justice

My commission expires first Monday of January,

SEAL

Report Date: 4/08/09

System Date: 4/08/09

Report Id: CSS25R

CURRENT BAIL INFORMATION

Time: 12:47

Mag. Dist. No.: 46-3-02

Docket Number: CR-0000108-09



Defendant Name: KESSLER, SHELDON LEO

Last Bail Action: SET Date: 3/12/09 Time: 9:30AM

Current Set Amount: \$ 25,000.00 Date: 03/12/09

Common Pleas Court Order Number: _____

Event Type: ARRAIGNMENT Date: 03/12/09 Time: 9:30AM

Release Type 1: UNSECURED BAIL Release Type 2: _____

Monetary Release Type: _____

Bail Bond Signed: YES Date: 03/12/09 Time: 9:39AM

SURETY TYPE	SURETY NAME AND ADDRESS	SECURITY TYPE	POSTED AMOUNT	PAID IN AMOUNT

LAST SURETY TYPE	LAST RECEIPT NUMBER	LAST RECEIPT DATE	LAST RECEIPT AMOUNT	LAST SURETY TYPE	LAST REFUND DATE	LAST REFUND CHECK NUMBER

Nominal/Unsecured Surety: KESSLER, SHELDON LEO

Release Conditions in Addition to Bail Bond Conditions:

Domestic Violence Conditions Imposed? NO

Bail Forfeiture Amount: \$ _____ Date of Execution of Forfeiture: _____

Bail Forfeiture Set Aside Amount: \$ _____

Reason for Last Bail Action of: _____

A503A-07

COPY: CLERK OF COURTS

PRINTED: 4/08/09 12:47:03 PM

1. Docket Number of Final Issuing Authority CR-0000108-09		2. Common Pleas Case Number		3. State Identification Number OTN K 926008-6	
4. Final Issuing Authority to be completed by Final Issuing Authority RICHARD A. IRELAND				5. Transferred from Initial Issuing Authority DISTRICT NO. 46 3 02	
6. Name and Address (Last Name First) KESSLER, SHELDON LEO 1618 ROBINSON AVE PO BOX 306 HYDE, PA 16843				7. Date of Transfer MM DD YY CR-0000108-09	
8. Docket No. of Initial Issuing Authority CR-0000108-09				9. Date of Filing MM DD YY 03 12 09	
10. Code REPORT OF JUDICIAL CRIMINAL PROCEEDINGS				11. ENTER TYPE OF FILING CODE IN BLOCK 10.	
12. Date of Birth MM DD YY 08 05 74				13. Sex M	
14. Operator License Number 29170674				15. State PA	
16. Date of Arrest MM DD YY 03 12 09				17. Date Complaint Filed or Citation issued MM DD YY 03 12 09	
18. LAST BAIL STATUS PRIOR TO SENTENCING EXPLANATION OF BAIL CODES ***SEE CURRENT BAIL INFORMATION PAGE***				19. Date Preliminary Arraignment MM DD YY 03 12 09	
20. Date Waived to Court MM DD YY				21. Date of Posting MM DD YY 03 12 09	
22. Date of Posting MM DD YY 03 12 09				23. Date of Posting MM DD YY 03 12 09	
24. Amount \$				25. Date Posted MM DD YY 03 12 09	
26. Final Charges: If Initial Charge is Changed Indicate Letter of Line(s) on which New Charge(s) appear.				27. Description of charges	
28. Description of charges				29. Section and Subsection	
30. Description of charges				31. Description of charges	
32. Description of charges				33. Description of charges	
34. Description of charges				35. Description of charges	
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DATE PRINTED: 4/08/09 12:47:03 PM
AOPC 501B-09 COPY: CLERK OF COURTS

USE REVERSE SIDE FOR REMARKS

INFORMATION
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

FILED

Criminal Action No. CP-17-CR-0000316-2009

APR 24 2009

COMMONWEALTH OF PENNSYLVANIA

William A. Shaw

VS.

Prothonotary/Clerk of Courts

SHELDON LEO KESSLER

The District Attorney of CLEARFIELD County, by this Information charges that on or about Friday, the 23rd day of January, 2009, in said County of CLEARFIELD, Sheldon Leo Kessler did commit the crime or crimes herein,

COUNT 1: ACQ OR OBT POSS OF CONTR SUBS MISRE

35 P.S. 780-113 (a) (12) -- Felony

DID acquire and obtain a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

COUNT 2: KNOWINGLY OR INTENTIONALLY POSSESSING A CONTROLLED OR COUNTERFEIT SUBSTANCE

35 P.S. 780-113 (a)(16) -- Misdemeanor

DID knowingly or intentionally possess a controlled or counterfeit substance by a person not registered under this act, or a practitioner not registered or licensed by the appropriate State board, unless the substance was obtained directly from, or pursuant to, a valid prescription order or order of a practitioner, or except as otherwise authorized by the Controlled Substance, Drug, Device and Cosmetic Act.

COUNT 3: THEFT BY UNLAWFUL TAKING-MOVABLE PROPERTY

18 Pa. C.S.A. 3921 (a) -- Misdemeanor 3rd DEGREE

DID unlawfully take or exercise unlawful control over, movable property of another with the intent to deprive him/her thereof.

TO WIT: On or about the above date, the actor did knowingly or intentionally possess a controlled or counterfeit substance, namely: Demerol, a Schedule II controlled substance. At the time of the actors possession of the controlled substance, he/she was not registered under the Controlled Substance Drug Device and Cosmetic Act nor was he/she licensed or registered by the appropriate State Board such that he/she could possess the same. The actor did unlawfully take or exercise unlawful control over said controlled substance, belonging to Clearfield Hospital, with the intent to deprive the victim thereof and did acquire and obtain said controlled substance by misrepresentation, fraud, forgery, deception or subterfuge, namely by prying open a compartment in a Pyxis narcotic dispensing machine and removing said controlled substance.

All of which is against the Acts of Assembly and the peace and dignity of the Commonwealth of Pennsylvania.

Affiant: Agt. Duane Musser
Office of the Atty. General

F. C. B. III
District Attorney

Citation of Statute and Section: 35 P.S. 780-113 (a) (12)
35 P.S. 780-113 (a)(16)
18 Pa. C.S.A. 3921 (a)

EXHIBIT
D

I hereby certify this to be true and attested copy of the original statement filed in this case.

DEC 28 2009

Attest:

William A. Shaw
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(Criminal Division)

Date of Plea Agreement: 9/17/09

COMMONWEALTH OF PENNSYLVANIA

Magistrate Docket No.: _____

OTN No.: 0

SHEDON KESSLER

Criminal Docket No.: CR-0316-2009

Current Address: PO BOX 306 33 Main Drive
Hyde PA 16844
North Warren
16365

Date of Birth: 8/15/74

S.S. #: Redacted

FILED

SEP 17 2009

NEGOTIATED PLEA AGREEMENT AND GUILTY PLEA COLLOQUY

William A. Shaw
Prothonotary/Clerk of Courts

The Office of the District Attorney of Clearfield County and the above captioned Defendant have negotiated a plea agreement in the above captioned matter(s), the terms of which are as follows:

[] The Defendant to plea guilty to the following charge(s):

DKT. #	Charge(s)	Statute	Grade	Counts	Max Penalty Each Count
1	ACC. POSS OF CONTROL SUB	35 Pa 780-113 (A) (12)	F	1	5YR 15,000
2	THEFT 1st TAKING	18 Pa 3921 (A)	M3	1	1YR 15,000
3	POSS. A CONTROLLED SUB	35 Pa 780-113 (A)(10)	M	1	1YR 15,000
4		Pa			15
5		Pa			15
6		Pa			15
7		Pa			15
8		Pa			15
9		Pa			15
10		Pa			15
11		Pa			15
12		Pa			15
13		Pa			15

*** TOTAL POSSIBLE MAXIMUM PENALTY

7YR 15 22,500

Revised Date 08/05/2006

Page 1 of 8

I hereby certify this to be true and attested copy of the original statement filed in this case.

EXHIBIT
E

DEC 28 2009

Attest:

William A. Shaw
Prothonotary/
Clerk of Courts

☐ The Defendant to receive a period of PROBATION. Maximum to the Court. Fines, Cost, Restitution, all other terms to the Court.

☒ The Defendant to receive a MINIMUM PERIOD of 90 DAYS INCARCERATION. Maximum to the Court. Fines, Cost, Restitution, all other terms to the Court.

☐ The Defendant to receive _____ If restitution is paid prior to sentencing.

If restitution is not paid prior to sentencing, the Defendant to receive a MINIMUM PERIOD of _____ INCARCERATION.

Maximum to the Court. Fines, Cost, Restitution, all other terms to the Court.

☐ Other:

NOTICE

1. Submission of this Plea Agreement to the Court is subject to the approval of the District Attorney of Clearfield County.
2. If approved by the District Attorney, this Plea Agreement shall be filed of record and submitted to the Court.
3. If not approved by the District Attorney, this Plea Agreement shall not be filed of record or submitted to the Court.
4. If not approved by the District Attorney, your case shall be placed on the trial list and you retain the absolute right to proceed to trial.
5. If not approved by the District Attorney, you shall receive written notice of the disapproval within 10 days from the Date of Plea Agreement.
6. By signing below, you request that this Plea Agreement be submitted to the District Attorney for approval and submission to the Court.

Assistant District Attorney

[Signature]
Defendant

Arresting Officer

[Signature]
Defendant's Attorney

DISTRICT ATTORNEY APPROVAL

☒ This Plea Agreement is APPROVED. File this Plea Agreement with the Clerk of Courts and present to the Court for acceptance.

☐ This Plea Agreement is NOT APPROVED. Do not file this Plea Agreement with the Clerk of Courts. Place this case on the trial list.

[Signature]
William A. Shaw, Jr.
District Attorney

X [Signature]

GUILTY PLEA COLLOQUY

If approved by the District Attorney, the Plea Agreement set forth above shall be presented to the Court for acceptance. Prior to acceptance of the Plea Agreement, it is essential that you understand certain rights and that the Court make a determination that you are entering into the Plea Agreement knowingly, voluntarily, and intelligently. The following Guilty Plea Colloquy shall be used by the Court to help make this determination.

Directions:

1. Read each question carefully.
2. Provide the appropriate answer when required to do so.
3. Circle the appropriate response when required to do so.
4. If you don't understand any of the questions, STOP, and ask your attorney or an attorney for the Commonwealth.
5. You MUST place your initials at the bottom of each page.

01. What is your full name? X Sheldon Leo Kessler
02. How old are you today? X 35
03. How far did you go in school? GED / High School Graduate / College Graduate / Other: X College Graduate
04. Can you read, write, and understand the English language? X YES (YES) (NO)
05. If your answer to question 4 is "No", who is helping you with this form? X
06. (YES) (NO) Do you understand that you have the right to be represented by an attorney of your choice, and if you are unable to afford an attorney you may apply to have a Public Defender represent you?
07. (YES) (NO) Do you understand that you have the right to proceed without the assistance of an attorney and if you elect to proceed without an attorney you will be held to the same standard as an attorney?
08. (YES) (NO) Do you understand the nature of the charges to which you are pleading guilty?
09. (YES) (NO) Has your attorney or an attorney for the Commonwealth explained to you the factual basis for the charges to which you are pleading guilty?
10. (YES) (NO) Do you understand the factual basis for the charges to which you are pleading guilty?
11. (YES) (NO) Has your attorney or an attorney for the Commonwealth explained to you the elements of each charge, in understandable terms, to which you are pleading guilty?
12. (YES) (NO) Do you understand the elements of each charge to which you are pleading guilty?
13. (YES) (NO) Do you understand that you have the right to have your case heard by a Judge without a jury, wherein the Judge would be the sole fact finder and determine your guilt or innocence.
14. (YES) (NO) Do you understand that you have the right to have a trial by jury in this case?
15. (YES) (NO) Do you understand that if you desire a trial by jury you will participate in the selection of your jury along with your attorney and with the District Attorney assigned to prosecute your case?

16. ☒ YES / ☐ NO Do you understand that in a trial by judge or trial by jury it is the burden of the Commonwealth to prove you guilty beyond a reasonable doubt?
17. ☒ YES / ☐ NO Do you understand that to prove you guilty beyond a reasonable doubt, the Commonwealth must prove each and every element of the crime or crimes charged beyond a reasonable doubt?
18. ☒ YES / ☐ NO Do you understand that all 12 jurors selected to hear your case must all agree and vote to find you guilty?
19. ☒ YES / ☐ NO Do you understand that at trial you have the right to remain silent and refuse to testify and that if you elect not to testify your refusal shall not prejudice you in any way and cannot be used against you by a judge or by the jury in making a decision?
20. ☒ YES / ☐ NO Do you understand that you are presumed innocent of the charges filed against you and you shall not lose that presumption unless the Commonwealth establishes your guilt beyond a reasonable doubt?
21. ☒ YES / ☐ NO Do you understand the maximum penalty that you could receive for each charge to which you are pleading guilty, as set forth on the Plea Agreement?
22. ☒ YES / ☐ NO Do you understand the permissible range of sentences and/or fines that may be imposed for each charge to which you are pleading guilty, as set forth on the Plea Agreement?
23. ☒ YES / ☐ NO Do you understand that any sentence imposed for multiple charges could run consecutively at the discretion of the Sentencing Judge?
24. ☒ YES / ☐ NO Do you understand the maximum possible period of incarceration and fine(s) that you could receive, as set forth on the Plea Agreement, if the charge(s) to which you are pleading guilty do not merge for the purpose of sentencing and the Judge imposes a consecutive sentence.
25. ☒ YES / ☐ NO Has your attorney or an attorney for the Commonwealth explained to you the maximum possible sentence(s) that you could receive pursuant to this Plea Agreement if the charge(s) to which you are pleading guilty do not merge for sentencing purposes and the Judge imposes a consecutive sentence for each charge?
26. ☒ YES / ☐ NO Do you understand that the place of incarceration, either county jail or state prison, is solely within the discretion of the Sentencing Judge and that you are given no guarantees as to the place of incarceration?
27. ☒ YES / ☐ NO Do you understand that the Judge is not bound by the terms of the Plea Agreement until and unless the Judge accepts the Plea Agreement?
28. ☒ YES / ☐ NO Do you understand that if the Judge refuses to accept the Plea Agreement you will be permitted to withdraw your guilty plea, and proceed to trial.
29. ☒ YES / ☐ NO Do you understand that this Plea Agreement may result in the revocation of any Probation, Parole or ARD program you may currently be subject to?
30. ☒ YES / ☐ NO Do you understand that this Plea Agreement may result in the loss of Driver's License, the ability to possess firearms, or the possibility of any professional license suspensions or other civil ramifications?
31. ☒ YES / ☐ NO Do you understand that you have the absolute right not to enter a Plea Agreement and to proceed with a trial by Judge or a trial by jury.

32. ☒ YES / ☐ NO

Do you understand that if you elect to proceed with a trial by Judge or a trial by jury you have the absolute right if you so desire to testify on your own behalf and you have the absolute right to present any relevant evidence which would help to prove your innocence and you would have the absolute right either yourself or through your attorney to cross-examine or question any witness(es) presented by the Commonwealth in order to test their credibility and truthfulness?

33. ☒ YES / ☐ NO

Do you understand that if you elect to proceed with a trial by Judge or a trial by jury you have the absolute right to file certain Pre-Trial Motions, including Motions for Discovery (requiring the Commonwealth to show you what evidence exists to establish your guilt or innocence); Motions to Suppress Evidence (where you can challenge the admissibility of evidence the Commonwealth may use against you); and Motions to Quash (where you can challenge the legality of your arrest and the proceedings against you).

34. ☒ YES / ☐ NO

Do you understand that by entering into this Plea Agreement you are waiving your right to have a trial and therefore, you are giving up those rights set forth in questions 32 and 33 above?

35. ☒ YES / ☐ NO

Do you understand that by pleading guilty, you are admitting that you committed the crimes to which you are pleading guilty to?

36. ☒ YES / ☐ NO

Do you understand that by pleading guilty you are giving up certain rights to appeal that you would have if you were found guilty either by a Judge or by a jury?

37. ☒ YES / ☐ NO

Do you understand that by pleading guilty any appeal you may wish to pursue is limited to the following claims:

- a. That the Court did not have jurisdiction.
- b. That your plea was not knowing, intelligent, and voluntarily entered into.
- c. That the sentence imposed was illegal.
- d. That your attorney was incompetent or ineffective.

38. ☒ YES / ☐ NO

Do you understand that by pleading guilty you will be required to pay restitution (if any), the cost of prosecution, fees, fines, and other similar penalty allowed by law?

39. ☒ YES / ☐ NO

Are you entering this Plea Agreement on your own free will?

40. ☒ YES / ☐ NO

If you are represented by an attorney, are you satisfied with the representation you have received, and if you are not represented by an attorney, are you satisfied proceeding without an attorney?

41. ☒ YES / ☐ NO

If you are not represented by an attorney have you had a sufficient time to consult with an attorney or otherwise consider the terms of this Plea Agreement?

42. ☒ YES / ☐ NO

Do you admit that you committed the crimes to which you are pleading guilty?

43. ☒ YES / ☐ NO

Do you agree that the facts set forth in the Criminal Complaint and Affidavit of Probable cause filed against you are an accurate statement of your role in regard to the charges to which you are pleading guilty?

44. ☒ YES / ☐ NO

Has anybody forced you to enter this Plea Agreement?

45. ☒ YES / ☐ NO

Have any threats been made to you to enter this Plea Agreement?

46. ☒ YES / ☐ NO

Other than the terms of this plea agreement, have any promises been made to you to enter this plea agreement?

47. YES / NO Do you have any physical or mental illness that would affect your ability to understand the rights explained in this Guilty Plea Colloquy, or affect the voluntary nature of your guilty plea?
48. YES / NO Are you presently taking any medications which might affect your thinking or your free will?
49. YES / NO Have you consumed any type of drugs (either legal or illegal) or alcohol in the last 48 hours that may affect your thinking or free will?

DEFENDANT CERTIFICATION

The above Plea Agreement is being entered into voluntarily and intelligently.
I have read the terms of the Plea Agreement and the attached Guilty Plea Colloquy.
I understand the terms of the Plea Agreement and the rights explained to me in the attached Guilty Plea Colloquy.

I agree that the execution of this Plea Agreement and Guilty Plea Colloquy and the filing of the same with the Clerk of Courts constitutes a TENDER OF THE PLEA and the COMMENCEMENT OF TRIAL pursuant to Rule 600 of the Pennsylvania Rules of Criminal Procedure. In consideration of the Plea Agreement, I agree to Waive the provisions of Rule 600 of the Pennsylvania Rules of Criminal Procedure from this day and date for that period of time spent processing and considering the Plea Agreement, up to and including the date that the Court either accepts or rejects the Plea Agreement.

I verify that the statements made in this Plea Agreement and Guilty Plea Colloquy are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

[Signature]
Defendant

9/17/09
Date

ATTORNEY CERTIFICATION

I certify that I have reviewed the above Plea Agreement and Guilty Plea Colloquy with the above captioned Defendant. I have explained to the above captioned Defendant the factual basis for the plea, the right to have a trial by Judge or jury, the presumption of innocence, the permissible range of sentences, the right of the Judge to accept or reject the Plea Agreement, and I have further reviewed in understandable terms the elements of each charge with the Defendant as well as the Commonwealth's burden of proof. I have answered any questions the Defendant may have had regarding this Plea Agreement. I am satisfied the Defendant understands the proceedings and is entering the Plea Agreement intelligently, knowingly, and voluntarily.

I verify that the statements made in this Attorney Certification are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

[Signature]
Attorney

9/17/09
Date

ADDENDUM TO GUILTY PLEA COLLOQUY
SEX OFFENSES

COMPLETE THIS SECTION ONLY IF PLEADING GUILTY TO AN OFFENSE
REQUIRING REGISTRATION PURSUANT TO Title 42 Pa.C.S.A. § 9791 et seq.

01. YES / NO Do you understand that you have the duty to register pursuant to provisions of title 42 Pa.C.S.A. § 9791 et seq (Supp.2003)
02. YES / NO Do you understand that you have the duty to register your current residence or intended residence with the Pennsylvania State Police upon release from incarceration, upon parole from a State or County Correctional Institution, or upon the commencement of a sentence of intermediate punishment or probation.
03. YES / NO Do you understand that you have the duty to inform the Pennsylvania State Police within ten days of a change of residence.
04. YES / NO Do you understand that you have the duty to register with a new law enforcement agency no later than ten days after establishing a residence in another state.
05. YES / NO Do you understand that if you are found to be a sexually violent predator, the Pennsylvania State Police shall verify your residence and compliance with counseling of sexually violent predators every ninety days through the use of a non forwardable verification form sent to your last reported address. During the period of registration, you have the duty to appear within ten days of receipt of the verification form at any Pennsylvania State Police station to complete the verification form and to be photographed.
06. YES / NO Do you understand that if you are found to be an offender, the Pennsylvania State Police shall verify your residence annually through the use of a non forwardable verification form sent to your last reported address. During the period of registration, you have the duty to appear within ten days of receipt of the verification form at any Pennsylvania State Police station to complete the verification form and to be photographed.
08. YES / NO Do you understand that you have the duty to immediately provide your photograph and fingerprints to the Pennsylvania State Police.
09. YES / NO Do you understand that you have the duty to register with the appropriate authorities in any state in which you are employed, carry on a vocation, or are a student, if the state requires such registration.

CERTIFICATION BY DEFENDANT

I have read the above duties relating to registration and certify that the duty to register pursuant to 42 Pa.C.S.A. § 9791 et seq has been explained to me.

Defendant

Date

Defendant's Attorney

VICTIM'S AGREEMENT

As a Victim of Crime, the District Attorney of Clearfield County wants to ensure that you understand the nature of the criminal proceedings and have the opportunity to provide input regarding a Plea Agreement.

Kindly review the following statements and feel free to ask any questions regarding the Plea Agreement:

1. I am the victim in the above captioned matter.
2. I have had an opportunity to discuss this case with an attorney from the District Attorney's Office.
3. I have had the terms of this Plea Agreement explained to me by an attorney from the District Attorney's Office.
4. I understand the terms of this Plea Agreement.
5. I understand that I can request that the District Attorney not accept a Plea Agreement and take this case to trial.
6. I understand that at trial, a jury may find the Defendant not guilty of some or all of the charges.
7. Under the circumstances of this case, I agree that a Plea Agreement is the best resolution.

REQUEST FOR NO CONTACT

- ☐ I do request that a No Contact Order be Ordered as part of the sentence.
- ☐ I do not request a No Contact Order be Ordered as part of the sentence.

REQUEST TO ADDRESS COURT

- ☐ I do request to address the Court at the time of sentencing.
- ☐ I do not request to address the Court at the time of sentencing.

AGREEMENT

- ☐ I do agree with the terms of the Plea Agreement and request that the Court accept the Plea Agreement.
- ☐ I do not agree with the terms of the Plea Agreement and request that this case go to trial.

Victim

Victim

Victim

Victim

I hereby certify this to be true and
attested copy of the original
statement filed in this case.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA DEC 28 2009

CRIMINAL ACTION

Attest.

William A. Brown
Prothonotary/
Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA :

-VS-

: CP-17-CR-316-2009

SHELDON LEO KESSLER :

S E N T E N C E

AND NOW, this 10th day of November, 2009,

Defendant having entered Guilty Pleas to the Offenses of Acquisition of a Controlled Substance by Fraud (Demoral), an ungraded Felony, and Theft by Unlawful Taking, a Misdemeanor of the Third Degree; he being fully and competently represented by counsel and the Court being satisfied that he has knowingly, voluntarily and intelligently entered said Pleas, it is the SENTENCE of this Court that, on the Offense of Acquisition of a Controlled Substance by Fraud, he pay for the benefit of Clearfield County Three Hundred (\$300.00) Dollars, plus costs of prosecution; that he be incarcerated in the Clearfield County Jail for a term the minimum of which shall be ninety (90) days and the maximum of which shall be one (1) year, plus a consecutive period of Probation of two (2) years under the supervision and control of the Clearfield County Department of Probation Services, Adult Division, with the period of incarceration to be initiated by the Defendant reporting to the Clearfield County Jail by no later than 7:00

EXHIBIT
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p.m. on Sunday, November 15, 2009; while incarcerated, he shall strictly comply with all job tasks and responsibilities assigned to him by officials of the Clearfield County Jail; effective immediately, the Defendant shall refrain from the possession or use of alcoholic beverages and controlled substances; upon release from incarceration, he shall attend and successfully complete drug and alcohol counseling at Two Roads Counseling in Hyde, Pennsylvania, plus any follow-up recommendations, and be responsible for all costs associated therewith; the Defendant shall submit to DNA testing and pay costs associated therewith in the amount of Two Hundred Fifty (\$250.00) dollars.

On the offense of Theft by Unlawful Taking, that he pay for the benefit of Clearfield County Fifty (\$50.00) Dollars, plus costs of prosecution; that he serve a period of Probation of one (1) year under the supervision and control of the Clearfield County Department of Probation Services, Adult Division, to be served concurrent to the above and under the same terms and conditions.

The Court notes that the offense of Possession of a Controlled Substance, an ungraded Misdemeanor, merges with Acquisition of a Controlled Substance, an ungraded Felony.

The Defendant may be eligible to participate in this county's re-entry plan, which includes the Work Release Program, Earned Time Credit Program, Intermediate Punishment

Program and Early Release Program. The Court notes that all participants must be approved by the Court prior to entering any program.

BY THE COURT,

/s/ Fredric J. Ammerman

President Judge